

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**CALIFORNIA'S HAZARDOUS WASTE
MANAGEMENT PROGRAM DOES NOT FULLY
PROTECT THE PUBLIC FROM THE HARMFUL
EFFECTS OF HAZARDOUS WASTE**

REPORT OF THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

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DOES NOT FULLY PROTECT THE PUBLIC FROM THE
HARMFUL EFFECTS OF HAZARDOUS WASTE

OCTOBER 1981



California Legislature

Joint Legislative Audit Committee

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The Honorable President pro Tempore of the Senate
The Honorable Speaker of the Assembly
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report concerning the Department of Health Services' program for controlling and managing hazardous waste.

Respectfully submitted,

WALTER M. INGALLS
Chairman, Joint Legislative
Audit Committee

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SUMMARY

We have reviewed the Department of Health Services' program for managing and controlling hazardous wastes. The primary goal of the program is to protect the public health and the environment from the improper storage, treatment, transportation, and disposal of hazardous waste materials. We found, however, that the department has made limited progress in implementing legislative requirements and has ineffectively enforced hazardous waste control laws. As a result, neither the public nor the environment are sufficiently protected from the harmful effects of hazardous waste.

The department's program for issuing permits to facilities treating, storing, or disposing of hazardous waste is intended to upgrade facilities' operations and to provide the department with a means for applying and enforcing standards. Yet we found that the department has only issued permits to 18 of the estimated 1,200 hazardous waste facilities in California--that is, less than 2 percent of all facilities statewide have been issued permits. Moreover, these 18 facilities do not include all of those receiving the most hazardous wastes. Because of these conditions, the department cannot assure that hazardous waste facilities are operated in

compliance with state standards. With the assistance of our consultants, we found examples of facilities not in compliance with minimum operating standards and instances where facilities were using unsafe operating practices. Although the department cites limited staffing and an increased workload as causes for these conditions, it failed to lower its workload standards and goals to reflect the actual time required to process permits.

In addition, the department lacks an effective enforcement program to identify and correct violations of hazardous waste control laws. Because it has not routinely inspected most of the State's hazardous waste facilities, it cannot effectively assess their compliance with state standards or identify violations. Also, the department does not consistently resolve violations of hazardous waste control laws. In several incidences of illegal and improper waste handling, the department failed to take adequate steps to ensure corrective action. And because the department lacks enforcement criteria, it does not apply sufficient sanctions and penalties to deter those violating hazardous waste control laws. Primarily, these problems have resulted because of insufficient staffing and because the department has not developed a system for managing its enforcement efforts.

Finally, the department has not effectively monitored and controlled the transportation of hazardous waste. Because the department has not adopted regulations implementing legislation passed almost two years ago, it has improperly registered waste haulers and has not ensured that transport vehicles are inspected for compliance with safety standards. Also, the department's system for monitoring waste shipments from production to final disposal is faulty. The department, consequently, cannot detect improper disposal practices and cannot ensure that wastes arrive safely at authorized disposal sites.

The Department of Health Services has recognized many of the problems detailed in this report and has planned and initiated corrective action to improve their performance in implementing legislative requirements; however, additional improvements are needed.

To address the weaknesses in the hazardous waste management program, we recommend that the Department of Health Services adopt these improvements:

- Develop and implement comprehensive plans to guide program implementation by establishing quantitative goals and objectives and performance effectiveness measures for each program;

- Develop and implement written program procedures and systems for managing workload, guiding program activities, and monitoring staff performance;
- Develop workload standards for its programs in order to establish staffing levels and justify staffing requests;
- Streamline procedures for reviewing and approving regulations; and
- Develop and adopt a comprehensive management information and reporting system.

INTRODUCTION

In response to a request by the Joint Legislative Audit Committee, we reviewed the program for managing hazardous waste administered by the Department of Health Services (DHS). This review was conducted under the authority vested in the Auditor General by Sections 10527 and 10528 of the Government Code.

This section will discuss the problems related to the improper handling of hazardous waste, detail the legislation creating the State's program for managing such waste, and describe the components of that program. Finally, this section includes the scope and methodology of our review.

The Hazardous Waste Problem

According to estimates of the Department of Health Services, each year Californians produce approximately 5 million metric tons of hazardous wastes, a figure expected to reach 7 million metric tons by 1985. Stated simply, hazardous wastes are the residue of a technological society. They include acids, corrosives, and toxic chemicals like arsenic, cyanide, and PCBs that are generated from industrial

operations, agriculture, and mining processes. If improperly handled, these wastes threaten the public health and safety as well as the environment.

According to the United States Environmental Protection Agency (EPA), only about 10 percent of the hazardous waste generated is disposed of in an environmentally sound manner. This improper disposal of hazardous waste has caused a wide range of problems, including contamination of soil and groundwater, fish and livestock loss, and crop damage. Moreover, events at Love Canal in Niagara Falls, New York and at the Stringfellow Quarry in Riverside, California have illustrated the adverse effects on human life resulting from improper disposal of toxic wastes. For example, hazardous wastes released from Love Canal have contaminated surface waters and are suspected of causing birth defects and chromosome abnormalities in children born to mothers residing in the area. And at the Stringfellow Quarry, 32 million gallons of toxic wastes were dumped in the 1960's and early 1970's. The site has been leaking wastes into the Santa Ana River. Residents of the area have complained of high rates of respiratory problems among children. Also, adults in the area have complained of high rates of reported skin lumps, kidney damage, and urinary and bladder infections.

Legislation Enacting the Hazardous
Waste Management Program

Recognizing the need for safe handling and disposal of the hazardous wastes produced in California, the Legislature enacted the California Hazardous Waste Control Act of 1972. The act established a program, the intent of which is to protect public health and safety and the environment by establishing and enforcing regulations to ensure the safe handling, storage, use, processing, and disposal of hazardous wastes. Further, the act designated that this program shall be administered by the Department of Health Services. Since 1972, the act has been amended several times. These amendments have broadened the regulatory authority of the DHS, strengthened enforcement provisions, and increased penalties for violations.

In 1976, the Federal Government instituted a nationwide program for managing hazardous waste through passage of the Resource Conservation and Recovery Act (RCRA). The RCRA required the Environmental Protection Agency to develop comprehensive standards for controlling hazardous waste and to implement a national hazardous waste management program. The RCRA also allowed state programs to operate in lieu of a federal program if they are judged to be equivalent. Many phases of California's hazardous waste management program are

now "substantially equivalent" to the RCRA requirements, and it has been authorized to operate these phases in place of the federal program.

Program Administration

In 1978, the DHS created the Hazardous Materials Management Section (HMMS) to implement and enforce the hazardous waste management program. This section, which has its headquarters in Sacramento, has three regional offices located in Berkeley, Los Angeles, and Sacramento. The section also has a branch office in Fresno. For federal fiscal year 1980-81, the HMMS was authorized 111 staff positions and was budgeted a total of \$5.6 million.

There are three major elements of the department's regulatory program: issuing permits and registrations to persons who handle hazardous waste; inspecting hazardous waste facilities for compliance with state operating requirements; and enforcing the law through administrative and legal sanctions. These program elements are designed to protect the public and the environment from the improper handling of hazardous waste.

Specifically, the DHS issues permits to persons who operate storage, treatment, or disposal facilities. It also registers those who transport hazardous materials and monitors the transportation of such materials. These permit and registration programs are intended to upgrade the operations of facilities and waste transporters and to ensure their compliance with safety standards.

To ensure compliance with laws, regulations, standards, and permit conditions, the DHS conducts inspections of hazardous waste facilities and investigates reported incidences of improper or illegal activities. When the department discovers violations, it generally relies on the facility to take corrective action. In some instances, it may suspend, revoke, or deny a facility's permit. The department also uses legal remedies to correct problems and may request civil and criminal penalties in court. The objectives of these enforcement actions are to ensure compliance with state laws and to deter potential violators.

In addition to the regulatory elements just discussed, the DHS is required to carry out planning and research activities related to hazardous waste. Major responsibilities include determining current and future rates of waste production; conducting statewide planning to identify

and assess needs for new waste facilities; coordinating research and development; and maintaining a technical reference center on handling, treating, and storing wastes. In addition, the department is required to promote the recovery and recycling of resources from hazardous waste. The DHS also conducts special studies; for example, its abandoned site project locates abandoned sites where hazardous wastes have been dumped to assess their potential for damage to the public or the environment. As of May 1981, the project had identified approximately 60 abandoned sites in northern California.

The department's hazardous waste management program is supported by fees collected from operators of hazardous waste disposal sites and from persons who register their vehicles to haul hazardous wastes. The program is also supported by fines assessed against violators of hazardous waste control laws. These fees and fines are paid to the Hazardous Waste Control Account of the General Fund.

Scope and Methodology

Our review focused on the performance of the Department of Health Services in accomplishing legislative objectives for managing and controlling hazardous waste. Specifically, we examined three of the major regulatory

elements of the program--issuing permits to facilities, enforcing laws and regulations, and controlling the transportation of hazardous waste.

In conducting this examination, we interviewed personnel of the Hazardous Materials Management Section and reviewed records at the section's headquarters, at three regional offices, and at the Fresno branch office. Additionally, we hired Pacific Environmental Services, an engineering consulting firm, to conduct compliance inspections at 20 hazardous waste facilities throughout the State. This firm independently assessed whether selected facilities complied with state operating standards for handling hazardous waste.

Finally, we did not examine the performance of either the State Water Resources Control Board or the Regional Water Quality Control Board even though these entities establish and enforce requirements for disposing wastes on the land or in surface and groundwaters.

CHAPTER I

CALIFORNIA'S HAZARDOUS WASTE MANAGEMENT PROGRAM DOES NOT FULLY PROTECT THE PUBLIC FROM THE HARMFUL EFFECTS OF HAZARDOUS WASTE

The Department of Health Services' program for regulating the handling of hazardous waste does not effectively protect the public and the environment. We found weaknesses in these program elements: issuing permits to facilities that store, treat, or dispose of wastes; enforcing laws controlling hazardous wastes; and monitoring the transportation of these hazardous materials. These are further expanded below:

- The department has issued operating permits to less than 2 percent of the hazardous waste facilities operating in the State, yet these facilities do not include all the facilities receiving the most hazardous wastes. Thus, the department cannot assure that these facilities observe minimum safety standards.
- The department has not implemented a routine inspection program, consistently resolved violations of laws, or applied sufficient sanctions and penalties against facilities violating state

regulations. As a result, the department may not effectively identify violations or deter those violating regulations.

- The department has not adopted regulations enacting its program for inspecting vehicles hauling waste and for registering drivers of these vehicles. Neither has the department refined its system for tracking shipments of waste from production to disposal sites. These conditions prevent the department from ensuring that wastes are properly transported and disposed of.

As a result of these weaknesses, the Department of Health Services' hazardous waste management program does not adequately protect the public and the environment from the improper handling of hazardous waste.

The following sections develop these areas, and the final chapter of the report presents our conclusions and recommendations.

LIMITED PROGRESS HAS BEEN
MADE IN ISSUING PERMITS TO
HAZARDOUS WASTE FACILITIES

The Department of Health Services has made limited progress in achieving its legislative objectives for issuing permits to hazardous waste facilities. Since the program began in 1978, the department has issued permits to 18 of the State's hazardous waste facilities. These 18 facilities represent less than 2 percent of the 1,200 hazardous waste facilities operating in California. Moreover, these facilities do not represent all of those that dispose of the most hazardous wastes. An effective program for issuing permits would upgrade the operations of facilities as well as allow the department to enforce standards by imposing sanctions on violators.

As a result of the limited progress in issuing facility permits, the department cannot assure that hazardous waste facilities are operating in accordance with minimum state standards. We found that improper practices at some facilities have resulted in hazardous conditions. This discovery was further supported by our engineering consultants who found operating deficiencies at several facilities that could adversely affect the safety of workers and the public. According to department officials, limited staffing and an increased workload prevented the permit program from meeting its objectives. Yet despite delays limiting the progress of

the program, the department failed to revise workload standards and goals accordingly. The department cannot accurately measure work effort and assess staff resource needs for the permit program until it implements a time-reporting system.

Recently, the department has taken actions to improve the performance of the permit program. Interim permits were issued to over 600 facilities and plans are being developed to streamline the issuing of final permits.

Requirements for Issuing Permits
to Hazardous Waste Facilities

The California Health and Safety Code requires the Department of Health Services to issue operating permits to all facilities that handle, store, treat, or dispose of hazardous waste. The goal of the permit program is to upgrade and control facility operations and therefore protect the public as well as the environment. This program also enables the department to enforce applicable provisions of laws and regulations by suspending, revoking, or denying permits.

In response to these requirements, the department has developed minimum operating standards for facilities. For example, facilities are prohibited from mixing incompatible wastes, discharging wastes outside designated areas, allowing

powdered wastes to become airborne, rupturing or causing leakage from containers, or directly applying flammable or water reactive wastes to a landfill area where equipment is being operated. These standards are designed to ensure that methods for handling, treating, storing, or disposing of wastes safeguard the public and the environment.

Besides developing minimum operating standards, the department has established certain procedures for issuing permits. To receive a permit, a facility operator must supply the department with an application and a plan describing operating procedures, the characteristics of the waste, and provisions for its safe handling. If the application and the operation plan are acceptable and if a departmental inspection of the site confirms that the facility operations conform to regulatory standards, the department will issue a final permit. This permit may also contain individual compliance requirements tailored to a particular facility.*

Additionally, the department is authorized by the Health and Safety Code to issue interim status documents to facilities pending final decision on the application for a

* In addition, if a facility discharges non-sewerable waste material into land or surface and groundwaters, the Regional Water Quality Control Board must approve the site and may establish waste discharge requirements.

permit. Interim status documents establish general compliance conditions for the safe operation of hazardous waste facilities; however, interim status documents do not require submittal of a detailed plan of operation or an on-site inspection visit by the department.

The Hazardous Materials Management Section has set time limits, quotas, and priorities for issuing permits to facilities. In its program workplan for 1982, the HMMS estimated that a major facility should be issued a permit within six months of the date of its application. Also, the section estimated in budget documents for fiscal year 1980-81 that it should issue 80 permits a year. Further, the section has given priority to facilities that handle and dispose of the most hazardous wastes.

Few Permits Have Been
Issued to Facilities

Despite the requirements discussed above, the Department of Health Services has made limited progress in issuing permits to hazardous waste facilities since the program began in 1978. Although there are approximately 1,200 facilities requiring hazardous waste permits, only 18 have been issued permits. Also, of the seven facilities now handling the

most hazardous wastes, only four have received permits, though these sites were given top priority at the outset of the program.

Our review indicated that a more effective program for issuing permits to hazardous waste facilities would assist in two ways. First, it would upgrade and improve the operations of facilities. Second, since it would allow the department to impose sanctions on facilities violating standards, it would serve as an additional enforcement tool. Ultimately, facilities' compliance with minimum operating standards would better protect the public and the environment.

Since 1978, when the permit program began, the department has issued final permits to 18 facilities. Two of these are now closed and one facility granted a permit was never built. This means that only 15 of the approximately 1,200 waste facilities now operating have been issued permits. Further, at the outset of the program, the department began processing applications for 11 of the top priority facilities--those handling the most hazardous wastes. However, during this review process, several of the sites closed. Thus, only four of the seven remaining top priority sites were issued permits.

Issuing permits to hazardous waste facilities plays an important role in improving operating practices. We found that several of the 18 facilities granted permits changed or modified their unsafe and improper procedures to meet compliance conditions established by the department. For example, one site modified its barrel disposal practices to prevent seepage of wastes and subsequent mixing of incompatible wastes. At another site, facility personnel built a fence to secure a hazardous waste area from both the public and nearby livestock. This site also changed its procedures to prevent unsafe handling of wastes such as hydrofluoric acid. At the department's insistence, another facility dampened dry toxic materials to prevent the wastes from blowing into adjacent areas. Furthermore, most facilities having permits were required to improve safety conditions for workers and members of the public by making available equipment such as eyewashes and safety showers.

In addition to improving operating practices, issuing permits to a facility enhances the department's enforcement of hazardous waste control laws. The department may threaten to revoke or suspend a facility's permit to motivate compliance with laws and regulations. Although all facilities, regardless of their permit status, are required to comply with regulations, department officials indicate that a permit provides additional leverage to require compliance.

Improper Handling of
Wastes Could Result
from Weak Permit Program

Because of its limited progress in issuing permits, the department cannot assure that hazardous waste facilities are managed and operated in accordance with state standards. We found that improper operating practices at some facilities have resulted in hazardous conditions. In addition, our engineering consultants, Pacific Environmental Services, noted potential operating deficiencies at several facilities that could adversely affect the safety of workers and the public.

Our review of department records and documents disclosed various instances of improper or unsafe operations at hazardous waste facilities. For example, at one facility chemical wastes produced at a chemical manufacturing site were slated for disposal by injection into a deep well. Instead, these wastes were illegally pumped to an unlined surface pond and then allowed to dry. Subsequent investigation of the pond, the wells, and the underlying groundwater revealed extensive contamination that affected the water supply.

At another facility, water containing arsenic, chromium, and copper had been allowed to run off and seep into the soil, contaminating the facility's property as well as the adjacent land. These metal particles in the soil also became

airborne, an incident that could have seriously affected the health of people in the area. In addition, nearby agricultural areas growing walnuts and oats were contaminated.

Our engineering consultants found potential violations at several facilities that had not been issued permits. As an example, some facilities did not construct fences around hazardous waste areas, properly store and label waste barrels, or provide adequate safety measures. Also, at one facility, our consultants found major violations such as the lack of a secure enclosure for the storage of hazardous waste. At this facility, there were no warning signs or proper labels on waste drums.

Factors Have Limited the
Issuance of Permits to
Hazardous Waste Facilities

We have identified factors that have impeded the Department of Health Services in successfully administering its program for issuing permits to hazardous waste facilities. According to DHS officials, the department initially assigned low priority to the program because of limited staff resources and increases in workload. But even though the DHS deemphasized this program, it failed to revise workload standards and goals accordingly. In fact, the department has maintained a processing goal of 80 permits per year since 1978.

Until the department implements an effective time reporting system to measure workload and to assess staffing needs, it will be unable to set realistic goals.

Because the department had insufficient staff resources to carry out legislative responsibilities, it assigned low priority to issuing permits to hazardous waste facilities. Often the enforcement program was given emphasis over the permit program. Thus, more staff were assigned to perform enforcement duties. Although some field personnel were specifically assigned to implement the permit program, they were often reassigned to surveillance or enforcement cases. In fact, only one person at Hazardous Materials Management Section headquarters was assigned to coordinate and track permits, yet even this staff member was periodically assigned additional duties. Because of its low priority, the permit program was not adequately staffed to achieve its objectives.

In addition, permit program staff working at the headquarters office were required to focus on other projects such as analyzing new legislation and developing the application for federal authorization of the hazardous waste program. New legislation related to hazardous waste was introduced from 1977 through 1980. This legislative activity required personnel to devote time to analyzing and drafting

legislation. Also, staff worked to prepare the state application for program authorization under the Resource Conservation and Recovery Act. Because staff time was directed to other projects, there was less emphasis on meeting the objectives of the permit program.

Finally, department officials informed us that they had difficulty increasing certain professional staff resources. For example, officials had difficulty getting approval for engineering positions and additional classifications. Until recently, the department could not obtain approval to hire requested management level engineers. Also, department officials stated that hiring freezes during program inception hindered the hiring of new staff. As a result, the department had difficulty assigning additional staff and management to the permit program.

Even though the department deemphasized the permit program, it did not revise performance standards and goals to reflect the lower priority of the program. Department officials told us that their initial estimate of the time required to issue permits to facilities was unrealistic; however, after delays resulted, they failed to adjust workload standards to reflect the actual time required. As an example,

the department has maintained a processing goal of 80 permits per year for several budget years, including fiscal year 1980-81.

Another indication that the department should reexamine the performance standards of the permit program is that processing time for permits is excessive. Although the department estimates that six months are needed to process a permit for a major facility, the average processing time exceeds one year. Moreover, several permit applications we reviewed had been pending for over two years. These delays have resulted because there is no active system in the permit program for monitoring the flow of applications. By analyzing the average time to process permits, the department could develop realistic goals and a monitoring system.

Similarly, the department cannot accurately measure work effort and assess staff resource needs for the permit program until it implements a time-reporting system. This will allow the department to judge the performance of the program and to measure its accomplishments. A time-reporting system in conjunction with a permit tracking system will also assist the DHS in reporting problems connected with processing delays and in justifying requests for more staff.

The Department Has Acted
to Improve the Program

Recently, the department has adopted actions to improve its performance in the permit program. The DHS issued interim status documents to 635 facilities in April 1981. The DHS plans to issue interim status documents to all hazardous waste facilities in the State by December 1981. These documents will be used to establish minimum operating conditions pending the issuance of a full permit.

Furthermore, the department has developed a new program plan for fiscal year 1981-82 that is being submitted to the EPA. According to this plan, which establishes some goals and objectives for the permit program, the DHS will issue final permits to most hazardous waste facilities by 1985. The department will develop a schedule of priorities in order to issue permits to 50 major facilities by October 1982. Currently, the department has 203 permit applications in process.

The department further intends to streamline and decentralize the permit process by assigning regional offices most of the permit work and by designating central headquarters as the center for providing technical consultation to regional offices. Headquarters will also coordinate the public hearing

process required by the RCRA. Further, one regional office is developing a manual workload tracking system which may be used statewide until a planned electronic data processing system is implemented. Finally, the HMMS recently developed a time-reporting system to measure staff efforts; however, at the time of our review, staffing for issuing permits had only been estimated.

SUMMARY

We found that the Department of Health Services has made limited progress in issuing permits to hazardous waste facilities. Although there are approximately 1,200 hazardous waste facilities needing permits, only 18 facilities have been issued final permits since 1978. Issuing permits is crucial since it assists the department in upgrading and controlling the management of hazardous wastes at facilities and provides the department an enforcement tool for motivating facilities to comply with state operating standards. Our review found that as a result of the department's limited progress in issuing permits, the department cannot assure that hazardous waste facilities are operating in accordance with minimum state requirements.

THE PROGRAM FOR ENFORCING
HAZARDOUS WASTE LAWS
IS NOT EFFECTIVE

The Department of Health Services lacks an effective program to enforce laws controlling hazardous waste. Specifically, the department's routine inspection program does not adequately assess facilities' compliance and identify violations. Also, the DHS does not consistently resolve violations of hazardous waste control laws. In addition, the department may not apply sufficient sanctions and penalties to deter those violating regulations. Although these problems are partly the result of understaffing, we found that the department has not developed or implemented necessary systems and procedures to manage its enforcement and inspection efforts. As a result, the department may deny the public and the environment full protection from the unsafe handling of hazardous waste.

Requirements For Inspecting
Facilities and Enforcing
Hazardous Waste Control Laws

The Health and Safety Code requires the department to enforce program regulations to ensure that the public and the environment are protected from improper handling of hazardous

waste.* To carry out this mandate, the department has established a field inspection and enforcement unit to conduct various enforcement activities, such as inspecting facilities that store, treat, or dispose of hazardous waste; investigating complaints and allegations; and pursuing corrective action through administrative and legal sanctions. These activities are further discussed below.

Periodically, the department conducts compliance inspections of hazardous waste facilities to determine whether they are observing regulations. The field inspectors may enter and inspect facilities that store, treat, or dispose of hazardous waste; collect and test waste samples; and audit records. The purpose of these inspections is to ensure that facilities comply with operating standards for safeguarding the public and the environment.

The department also investigates alleged improper or illegal activities in response to complaints or tips. If the department confirms a violation, it attempts to get the facility to take corrective action. To do this, the department will issue written orders directing the violator to develop a

* The Director of the Department of Health Services may also designate any local health officer or any local public officer to enforce the minimum standards and regulations adopted by the department.

clean-up plan to be approved by the department. Once the clean-up plan is approved, the department monitors the facility to ensure that the violator complies with the plan of corrective action.

The department can also impose administrative sanctions and seek civil and criminal penalties against those violating hazardous waste control laws. After a public hearing, the Director of the DHS may suspend or revoke permits and registrations and order the violators to take corrective action. Lastly, the department may seek an injunction prohibiting illegal practices or seek civil and criminal penalties up to \$25,000 for each day the violation remains uncorrected.*

According to the department's state plan, prosecuting violators is an essential component of the enforcement program since it will deter would-be violators, thereby safeguarding the public and the environment. DHS officials contend that if the enforcement program is weak, there is little incentive for those involved in generating, transporting, or disposing of hazardous wastes to bear the costs of complying with the State's regulatory program.

* For additional offenses, the department may seek criminal penalties up to \$50,000 per day of violation.

Enforcement Efforts Are Ineffective

Our review found that the Department of Health Services lacks an effective program to enforce laws controlling the handling of hazardous waste. Specifically, we found that the department

- Lacks an effective routine inspection program;
- Does not consistently resolve violations of hazardous waste control laws; and
- Fails to impose sufficient sanctions on those violating these laws.

Lack of Routine Inspection Program

The department lacks an effective routine inspection program to assess facilities' compliance and to identify and correct violations before they become serious problems. Only a few of the State's waste facilities are routinely inspected. These inspections are essential since the field visits the DHS has conducted have revealed improper operating practices. Additionally, our consultants noted instances where facilities failed to comply with operating standards, primarily because they were unfamiliar with operating requirements. We noted that the department's inspection program is not adequate for

several reasons. The program is understaffed and low priority is given to conducting routine compliance inspections. Also, the department lacks procedures to monitor and control the amount of time spent on inspections and investigations.

We found that the department has inspected less than 15 percent of the State's hazardous waste facilities. Moreover, the DHS inspected many of these facilities because it received a complaint, not because of its routine inspection process. The Los Angeles regional office staff told us that while they conduct complaint investigations, they have no routine inspection program even though it is estimated that over 50 percent of the State's hazardous waste facilities are located in southern California.

One argument for expanding the department's inspection program is that the few field inspections conducted by the HMMS have revealed improper operating practices that could seriously threaten the public health as well as the environment. These practices included disposal at unauthorized sites, careless and improper procedures for handling waste, mixing of incompatible wastes, and inadequate safety equipment at facilities. For example, the department inspected a solvent recycling facility and found poor housekeeping, unlabeled drums, extremely hazardous waste commingled with other wastes, and unsecured spill areas.

Our consulting engineers, Pacific Environmental Services, also found varying degrees of noncompliance with operating standards at several of the hazardous waste facilities they visited. Although they did not find any conditions of imminent hazard to the public or the environment, they found potential violations of state regulations at 17 of the 20 facilities they visited. The consultants most frequently found poor containment of wastes, problems with perimeter security, and insufficient warning signs in the 20 facilities inspected. Table 1 demonstrates the frequency of various types of potential violations found by our consultants.

TABLE 1
TYPE AND FREQUENCY OF POTENTIAL VIOLATIONS FOUND BY CONSULTANTS

<u>Type of Potential Violation</u>	Facilities' Methods of Handling Waste ^a			<u>Total Potential Violations</u>
	<u>Treatment</u>	<u>Storage</u>	<u>Disposal</u>	
Containment of waste	6	7	1	14
Perimeter security	3	8	2	13
Duration of storage		4		4
Warning signs	4	9	2	15
Labeling of waste containers		7		7
Required records		2	2	4
Safety for personnel	—	1	—	1
Total	<u><u>13</u></u>	<u><u>38</u></u>	<u><u>7</u></u>	<u><u>58</u></u>

^a Some facilities used more than one method of handling waste.

At half the facilities they visited, our consultants found that personnel were confused about the State's operating requirements for hazardous waste facilities. At least some of this confusion resulted because the department has not visited the facilities to offer assistance in interpreting requirements. For example, the operator of one facility was not familiar with the DHS regulations which he must follow. Further, our consultants found that intervention by the DHS was not a primary factor in motivating any of the 20 facilities to comply with regulations for handling hazardous waste. Instead, operators of facilities were motivated by their own corporate management or by other public agencies such as the Regional Water Quality Control Board.

During our analysis of the inspection program, we found that insufficient staffing and the low priority given to routine inspections have hindered the performance of the program. As of June 1981, the inspection and enforcement unit employed approximately 30 staff members. These employees are responsible for ensuring that the State's 6,500 generators, 600 waste haulers, and 1,200 treatment, storage, and disposal facilities comply with state regulations. Although the department has not adequately assessed its staffing needs, it has estimated that 60 to 70 field staff are necessary to carry out the mandate to enforce proper handling of hazardous waste.

In addition to insufficient staffing, the department has given low priority to performing routine compliance inspections. It has emphasized responding to hazardous waste incidents and complaints regarding the improper handling or disposal of hazardous materials. As a result, the department has completed very few routine compliance inspections. The department is now developing plans to conduct more routine compliance inspections. In addition, the department has recently inspected over 100 facilities for compliance with interim status requirements.

Finally, the department lacks procedures to monitor and control the amount of time spent on inspections and investigations. Field offices operate without time goals, written procedures, and periodic caseload reviews. Because the field supervisors are unable to adequately monitor and evaluate inspection efforts, they are unable to assign staff in the most efficient and effective manner.

Failure to Consistently
Resolve Violations of
Hazardous Waste Control Laws

To determine the department's performance in resolving violations, we reviewed case files and records of enforcement actions to assess the department's performance in

resolving violations of hazardous waste control laws. We found that the department does not consistently resolve violations of the law either by following up on corrective action or by responding to complaints of improper activity. The central cause for this problem is that the department lacks a monitoring system or procedures ensuring that facility operators address identified violations.

Two examples we found illustrated the department's failure to resolve identified violations. In June 1979, the department inspected a battery recycling facility in response to a complaint from the Department of Fish and Game. The staff found high levels of lead contamination in both the soil and the creek near the facility. This contamination posed a potential health hazard and a threat to the environment. As of the end of our review, the department had not taken any corrective action.

And in another case, the department identified violations but failed to take prompt corrective action. The department found 47 barrels of various paint sludges, chemical solvents, and unknown chemicals buried at a landfill. The department's staff, observing that various colored liquids were seeping from these barrels, asked the owner of the facility to retain the barrels as evidence for possible prosecution. The staff, however, did not return to the landfill for six months.

When they returned, they found the barrels in the same location and again observed the seepage. At this time, a department official determined that prosecution would be unsuccessful because of the time that had lapsed between the time the barrels were found and the time of the follow-up inspection.

In other cases, the department failed to respond to allegations of improper or illegal activity. As an example, a water district complained to the department that barrels of chromic acid were being rinsed near one of its wells. The complaint was assigned to an investigator but, at the completion of our review, it had not been investigated and had been pending for six months.

The department does not consistently resolve violations of hazardous waste control laws because it lacks an adequate system and corresponding procedures for monitoring the status of corrective actions. An effective monitoring system requires that the department monitor cases from their initiation to their completion to ensure that improvements are proceeding as planned. The system should ensure that the department has taken the appropriate steps to obtain corrective action and that the violator is meeting compliance schedules. Currently, the department is planning such a monitoring system; however, at the end of our review, it had not been implemented.

We also found that the department lacked written procedures to guide field inspectors in resolving violations. Also, supervisors rarely reviewed inspectors' workload or case files to ensure timely action was taken to correct violations. Neither did personnel assign numbers to cases nor systematically review them to assess progress toward correction. As a result, the department has failed to effectively resolve some violations of hazardous waste control laws.

Few Penalties
Applied to Violators

Although the departmental plan states that detection and prosecution are essential to the success of the program, as well as to the protection of the public health and the environment, the department has applied few penalties and sanctions to those violating hazardous waste control laws. Yet we noted instances where the department could have imposed sanctions but did not. According to department officials, stronger enforcement action is not taken because it often results in court actions which are time-consuming and expensive. Also, we found that the department lacks a strategy for guiding its enforcement actions. Without the threat of penalties and sanctions, there is little incentive for those

involved in the generation, transportation, or disposal of hazardous waste to bear the added costs of complying with the State's regulatory program.

The department has estimated that 40 enforcement actions per year are necessary to deter violators; however, it has applied few of the legal and administrative sanctions available to it. For example, although the department has identified over 300 incidents of illegal activities since 1979, only 16 of these have been brought to the courts. These actions have resulted in fines totaling \$2,000 and \$10,000 plus a monetary settlement of \$2,800,000.* The department, however, has resolved many of the remaining incidents by requesting violators to comply with state regulations. We also found that the department has not issued any administrative orders or held hearings on illegal activities. Neither has the DHS revoked or suspended registrations or permits issued to waste transporters or facilities.

As demonstration of the need to impose sanctions on violators, we found incidences of illegal activity where the department could have taken strong action but took little. To

* As noted in the Introduction, these fines are placed in the General Fund's Hazardous Waste Control Account to be used to pay salaries and other costs of administering the hazardous waste management program.

illustrate, the department investigated a rubber company which on four separate occasions has illegally dumped barrels of hazardous waste at an unauthorized landfill. Some of the barrels were filled with liquid wastes and were labeled as "cancer-causing" and "flammable." The department has sent warning letters to the company but has taken no other action.

Department officials have told us that stronger enforcement action is not taken because it may result in lengthy and expensive court action. Lawsuits may take several years to adjudicate; staff must devote many months to gathering necessary evidence and appearing in court. Department officials believe that they can be more successful by negotiating with the violators to obtain corrective action. These officials also told us that additional administrative penalties are needed. The authority to issue administrative fines is necessary when violations of the law occur. The EPA now has the authority, as do several other states, to issue administrative fines against violators of hazardous waste control laws.

In addition to administrative penalties, the department also needs criteria to make an effective enforcement strategy work. Yet the department has not developed criteria

to guide its enforcement actions. This is in contrast to the Environmental Protection Agency, which bases its enforcement actions upon the magnitude of the health risk brought on by the violation. This risk is determined through considering factors such as the degree of hazard, the population, the amount of deviation from the standard or the deadline for compliance, the feasibility of correction, the deterrent effect that enforcement may have on other violators, and the violator's compliance history. By weighing these factors, EPA officials are able to reach a decision about enforcement actions.

SUMMARY

Our review found that the department lacks an effective inspection and enforcement program. We found that few routine inspections are conducted, violations are not always corrected, and penalties are rarely assessed. As a result, the public and the environment are not being adequately protected from the improper handling of hazardous waste.

THE TRANSPORTATION OF HAZARDOUS
WASTE IS NOT ADEQUATELY
CONTROLLED AND MONITORED

The Department of Health Services has not effectively implemented requirements for controlling and monitoring the transportation of hazardous waste. That is, the department has not adopted regulations that detail specifications for waste vehicle containers or that specify training requirements for drivers hauling hazardous waste. In addition, the department's system for tracking and monitoring hazardous waste shipments from production to final disposal is not effective. Deficiencies in the design of the system prevent the department from verifying that waste loads arrive safely at disposal sites. As a result of these problems, the department provides little protection to the public and the environment. We found several incidences of improper activity that could have been addressed by a functioning program that monitors and controls the transportation of hazardous waste.

Requirements for
Transporting Hazardous Waste

The Health and Safety Code requires the Department of Health Services to develop and implement controls to ensure that hazardous wastes are safely transported. These controls include registering those hauling waste, inspecting and certifying waste transport vehicles, and tracking waste load shipments. The legislation also requires registered haulers to

obtain liability insurance and to train their drivers in the safe handling of hazardous waste. The purpose of these requirements is to protect the public and the environment from the effects of improperly transporting hazardous waste to disposal sites.

Section 25168 of the Health and Safety Code, which became effective on January 1, 1980, makes the registration of waste haulers contingent upon two major conditions. First, the transport vehicles and containers used by the haulers must receive annual inspections and compliance certifications from the California Highway Patrol (CHP). The inspection is required to determine if the vehicles comply with Vehicle Code and DHS regulations. These regulations should define the design, construction, and equipment requirements of vehicles, as well as specify safety measures. Second, haulers must provide documentation indicating that all persons operating registered vehicles have received adequate training to ensure the safe handling of hazardous waste.

In addition to these requirements, state and federal law establishes a system for tracking the movement of wastes from production to disposal sites. Specifically, Section 25168 of the Health and Safety Code as well as the Resource Conservation and Recovery Act mandate this system referred to

as a hazardous waste shipping manifest system. It requires that transported hazardous waste be accompanied by a list or manifest describing the type, amount, composition, origin, and destination of the waste. Although the system is designed to ensure that wastes arrive at authorized disposal sites, it also provides the State considerable data on the types and volume of materials disposed of.

Furthermore, regulations and procedures of the DHS require each producer, disposer, and hauler to submit a copy of the manifest within 30 days of the shipment and disposal of waste. The department has designed an automated system to cross-match these copies in order to determine if the waste load arrived at the disposal site. A successful match would indicate that the same waste load shipped by a producer was received and disposed of by an authorized facility. If a match does not occur, the system should generate an exception report so that the DHS may investigate the incident. Unmatched manifests could indicate that waste loads were illegally dumped.

Failure to Develop Regulations
Hinders Program Implementation

Our review indicated that the department has not adopted regulations implementing major elements of the vehicle inspection and hauler registration program that was enacted

into law almost two years ago. For instance, the department has not established regulations detailing specifications for waste vehicle containers or training requirements for those transporting hazardous waste. These regulations are needed to control the improper transporting of waste. Without these regulations, the department is improperly registering waste haulers. Also, the California Highway Patrol is unable to initiate annual inspections and compliance certifications of vehicles transporting hazardous waste because it lacks regulations against which to assess compliance. According to the department, a time-consuming review process has prevented it from establishing the necessary regulations.

The department needs to adopt regulations implementing a vehicle inspection and driver training verification program to ensure that haulers do not improperly transport hazardous waste. Although the department does not maintain statistics on hauler violations, we found several examples of unsafe and illegal transportation while reviewing regional office records and documents. Several of the cases could have caused severe damage to the public and to the environment. In one case, a vacuum tank truck filled with an acidic hazardous waste was stopped by a county sheriff. While inspecting the vehicle, the officer found that the tank was leaking acid and that one of the holes had been plugged with a toothpick to restrict the flow of acid onto the highway.

In another case, a vehicle transporting a load of hazardous waste was stopped by the CHP for improper registration. The waste load contained acids, poisons, and flammable liquids. Several of the drums were leaking, and the ground around the truck was contaminated. The leaking drums and contaminated earth were removed by another truck and disposed at an authorized site. In addition, the drivers of the truck were arrested for outstanding traffic warrants. We found other examples of improper transportation of hazardous waste that caused hazardous conditions.

In violation of Health and Safety Code requirements, the department has continued to register hazardous waste haulers. We found that since January 1981, the department has improperly registered 600 waste haulers. Also, unless the department adopts container specifications and equipment design standards for registering hauler vehicles, the CHP will have no compliance standards for inspecting and certifying vehicles transporting waste. The CHP informed us, however, that it will begin inspecting vehicles under the Vehicle and Administrative Code sections but will be unable to assess container specifications until departmental regulations are adopted.

According to officials of the DHS, their process for reviewing and approving regulations has contributed to delays in implementing the hauler registration and vehicle inspection program. Our review of this process showed that timeframes for preparing, reviewing, and approving draft regulations were exceeded at several processing stages. The department's legal review, for example, required eight months rather than the customary two. In addition, the regulation coordination unit exceeded its review time by over a month. One reason for these delays is the low priority that was given to these regulations.

Department officials estimate that regulations will be released by the summer of 1982, over two years after passage of the legislation. These regulations, however, have been termed "minimum standards" in order to implement the program. Final regulations on container specifications will be developed at a later date. Additionally, regulations guiding the driver training requirement have not yet been developed; the department was unable to provide an estimated completion date. As a result, the hauler registration program has not been effectively implemented.

Manifest System Does Not Effectively Monitor Hazardous Waste Shipments

The department's hazardous waste manifest system does not effectively monitor waste shipments from the production to the disposal site. We found that although an automated system was developed to track waste shipments, deficiencies in system design and operation limit the department's ability to verify that waste loads arrive safely at disposal sites. In some cases, the automated manifest system has not detected incidences of illegal disposal. As a result, the DHS cannot effectively monitor hazardous waste shipments and cannot assure that wastes are disposed of properly.

The hazardous waste manifest system is not effective since it does not compare producer and disposer manifest copies to verify that the same waste loads shipped by the producer are disposed. Although the system was initially designed to accomplish this match and to generate exception reports, we found that several weaknesses inhibit the system's functioning. For example, since producers and disposers do not promptly mail manifest copies, the system may fail to match over 35 percent of the manifests each month because of time lags in receiving the forms. Also, the manifests are not preprinted with serial numbers, a feature that would increase the efficiency of matching. In addition, the system does not assign

identification codes to producer facilities; instead it uses phone numbers to identify them. This form of identification could cause problems because many large corporations have several phone numbers which are subject to change.

These problems and others caused the department to discontinue the manifest system exception reporting program. Now the department enters the disposer's copy of the form into the system in order to compile and tabulate reports on hazardous waste disposal. Although these reports contain useful information on the volume and types of wastes, they do not fulfill the primary purpose of the manifest system--to provide a monitoring and enforcement tool. As a result, after seven years of implementation, the manifest system is not meeting its intended objectives.

The need for this system is illustrated by the instances of illegal waste disposal that go undetected. We found several cases of improper disposal that were not detected by the manifest system. In one case, a waste hauler illegally disposed hazardous wastes including formaldehyde, ethanol, and chloroform along a highway in a national forest. The manifest system did not detect this dumping and the department learned of it from someone who observed the incident. Another example involved a waste hauler illegally disposing of drilling muds in

an agricultural area. The wastes contained boron, chromium, and vanadium. The department learned of the incident through a tip from a witness, not through a report generated by the manifest system.

The department has been aware of weaknesses in the manifest system for many years. On several different occasions, DHS officials have requested assistance from the department's electronic data processing division and the federal EPA to improve and modify the system to meet monitoring needs. Despite these requests, corrective action was never taken and deficiencies went uncorrected.

In 1981, the Hazardous Materials Management Section and the department's electronic data processing (EDP) division initiated additional efforts to correct manifest system problems. The department has conducted a user needs assessment, a feasibility study, and developed the design and content of documents and reports. Some of the improvements recommended by the study were that the department write new regulations requiring more frequent form submittal and that it design a new system giving top priority to disposal tracking and monitoring. These suggested improvements in the manifest system are part of a larger HMMS management information and reporting system planned for development and implementation in 1982.

SUMMARY

The department does not adequately control and monitor hazardous waste transportation because it has not developed regulations implementing its vehicle inspection and hauler registration programs. Neither has it developed an effective system for monitoring the shipment of waste from production to final disposal. As a result, the public may not be adequately protected from hazards resulting from the improper or illegal transportation of hazardous waste.

CHAPTER II
CONCLUSIONS AND RECOMMENDATIONS

The Department of Health Services' hazardous waste management program does not adequately protect the public and the environment from the harmful effects of hazardous waste. Our review of program activities focused on the department's issuance of permits to facilities storing, treating, or disposing of waste; enforcement of hazardous waste control laws; and monitoring of the transportation of hazardous waste.

We found that the department has issued only 18 operating permits to approximately 1,200 hazardous waste facilities currently operating in the State. Moreover, these 18 facilities do not include all of those that store or dispose of the most hazardous waste. An effective permit program would enable the department to upgrade the operations of facilities as well as to enforce standards by imposing sanctions on violators. Yet because the department has issued permits to less than 2 percent of the facilities in the State, it has little assurance that facilities operate in compliance with minimum operating standards. In cooperation with our consultants, we found that some facilities are not operating in compliance with state standards and that some facilities'

operations have adversely affected the public and the environment. According to department officials, limited staffing and an increased workload have caused these conditions. Yet despite the delays in meeting the objectives of the program, the DHS has not revised workload standards or goals.

The department also has not effectively enforced hazardous waste control laws because it lacks sufficient staffing as well as a system to guide its efforts. Specifically, the DHS has not implemented a routine inspection program. In fact, it has not visited over 85 percent of all facilities in California to check compliance with state operating requirements. These inspections are essential because field visits the department has conducted have revealed improper operations in facilities. Also, the field inspectors have sometimes failed to resolve identified violations. We found cases where the department identified a deficiency but failed to take corrective action. In addition, the department has not applied sufficient sanctions to deter potential violators because it has not developed criteria guiding its enforcement actions.

Finally, the department has not effectively controlled or monitored the transportation of hazardous waste for two reasons. It has not adopted regulations implementing

its vehicle inspection and hauler registration programs, and it has not established a successful system for tracking shipments of waste from production to disposal sites. Without these regulations, the department has registered haulers improperly and has failed to verify that those driving waste disposal vehicles receive training in the safe handling of hazardous waste. Also, because the tracking system does not effectively monitor waste shipments from production to disposal, the department cannot ensure that waste shipments arrive safely at authorized disposal sites. The numerous examples of improper transportation point to the need to implement an effective program to control and monitor the transportation of hazardous waste.

The Department of Health Services has recognized many of the problems described in the report. In some cases, it has planned and initiated corrective action. And it is working to develop a comprehensive management information and reporting system. However, further improvements are needed to correct the program deficiencies we documented.

RECOMMENDATION

To strengthen the control and management of hazardous waste, we recommend the Department of Health Services improve its planning and administration. Specifically, the department should

- Develop specific goals and objectives for issuing facility permits, enforcing hazardous waste control laws, and controlling the transportation of hazardous waste. It should quantify objectives and establish performance milestones for each program. The department should then monitor the accomplishment of these objectives and modify plans as required.
- Develop and implement comprehensive written systems and procedures to guide program implementation. The department should improve its system for management reporting and time accounting and should create a system for measuring the performance of each program. Also, the DHS should develop workload standards for each program so that it can establish staffing levels and justify staffing requests.
- Develop specific procedures to guide the issuing of facility permits, to monitor the status of corrective actions, to conduct routine compliance inspections, and to apply sanctions to violators of law.

- Improve the efficiency of procedures for reviewing and approving draft regulations. The DHS legal and regulations unit should set review priorities and meet review milestones to ensure that legislative requirements are promptly implemented.
- Implement planned design modifications to the manifest system to ensure the system effectively monitors the shipment of hazardous waste. The department should establish implementation milestones and monitor the accomplishment of system improvements.

In addition, the Legislature may wish to consider supplying the department with additional administrative remedies to ensure that those violating hazardous waste control laws correct the deficiencies. The remedies might include written citations, binding arbitration, or procedures for suspending permits.

Respectfully submitted,



Thomas W. Hayes
THOMAS W. HAYES
Auditor General

Date: October 21, 1981

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October 19, 1981

Mr. Thomas W. Hayes, Auditor General
Office of the Auditor General
680 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

Enclosed is my response to the audit report on the Department's hazardous waste control program. I understand that this material will be included in the report prior to its issuance. Our response includes a summary of actions which the Department has undertaken to improve the effectiveness of the program. In addition to these actions, I am in the process of reorganizing in order to give closer management attention to the program.

I am sure our program will benefit substantially from the thorough review it has received and the constructive criticism offered in the report. I concur completely with all of the specific recommendations which are presented in the report to strengthen the control and management of hazardous waste. We will move swiftly to carry out the recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverlee A. Myers".

Beverlee A. Myers
Director

Enclosure

RESPONSE TO THE REPORT OF THE AUDITOR GENERAL
ON
THE HAZARDOUS WASTE CONTROL PROGRAM
DEPARTMENT OF HEALTH SERVICES
OCTOBER 1981

The report of the Auditor General addressed three regulatory program elements of the California Hazardous Waste Management Program of the Department--permits, enforcement, and transportation. In this response to the Auditor's report, a summary is first presented of department actions which have been taken to improve the effectiveness of the hazardous waste control program. These actions address many of the program weaknesses which are brought out in the report. Following the summary, the response is directed at the coverage and content of the report in the three program areas.

SUMMARY OF DEPARTMENT ACTIONS

1. In order to assure the safe management of hazardous wastes at storage, treatment and disposal facilities until full facility permits can be established, the department has carried out an intensive program to establish and enforce permit conditions through interim permits (interim status documents) and follow-up compliance inspections. Over 635 interim permits have been issued and over 110 compliance inspections have been conducted to date.
2. The Department has conducted an inspection-enforcement program which has chiefly responded to instances of uncontrolled operations involving significant problems. Increased field staff has enabled the Department to commence a prioritized, routine facility inspection program which is an expanding portion of the inspection enforcement activity.

3. Recognizing the data management needs of the program, the department, over the past year, has initiated the development of a fully automated information management system which will: (1) provide an effective system for monitoring the shipment of wastes; (2) track enforcement and permitting activities; (3) monitor recycling operations; and (4) verify and document disposal activities. The system will be implemented beginning in stages early in 1982.
4. The department has had a task force investigating methods whereby regulations could be established in the most expeditious manner within the necessary review and hearing restraints. The improved methods will be implemented at the conclusion of their effort at the end of October.

PERMIT PROGRAM

The Department has been concerned with the limited progress in issuing final permits to hazardous waste facilities and, as the report points out, actions have been taken to improve its performance. One action, the issuance of interim status documents, has done much to address the deficiencies noted in the report associated with limited progress on final permits.

The objective of the hazardous waste facility permit program is to assure the safe management of wastes at a facility for health and environmental protection and to enable the department to enforce appropriate requirements through the application of permit conditions. While the report states that the department has issued 18 final facility permits and 635 interim status documents (interim facility permits), it does not point out that the interim permits accomplish the objective of the permit program until the final permit can be issued. The interim status documents were developed and issued for 635 facilities including virtually every major operation and including all those receiving the most hazardous wastes. They apply conditions on these operations which are equivalent to full permit conditions. The documents were developed based on information obtained through individual contacts with the facility operators regarding the specific types of operations conducted at the facility, the amount, character and type of waste material which is handled and other factors.^{1/}

The report states (page 14) that a permit results in improved operating practices which are carried out to meet the compliance conditions that are expressed in the permit. The report notes as an example of this that most facilities having permits were required to improve safety conditions for workers and members of the public. (page 15). Facilities operating under interim status documents are required to comply with the same appropriate safety conditions.

Two cases are cited to support the heading (page 15) that "Improper Handling of Wastes Could Result from Weak Permit Program". One instance involved a deep well injection operation where wastes were illegally pumped to an unlined surface pond with resultant groundwater contamination. It is questionable that an illegal act would have been prevented by a facility permit inasmuch as there were clear violations of existing state law and regulations. The

second case principally involved the misuse of chemicals in a wood treatment process. The sloppy operation resulted in groundwater contamination. It is doubtful that the industrial operations which caused the problem constituted a hazardous waste facility although the spilled material was a violation of state law by a waste generator.2/

Other violations at facilities that had not been issued permits which were noted by the Auditor General's consultants (page 17) are violations of interim status document conditions imposed on these facilities by the department. The department will take actions to obtain corrections when it receives a report of these violations from the consultant who was acting as an agent of the department.

ENFORCEMENT PROGRAM

Three deficiencies are identified in the coverage of the department's enforcement program -- insufficient sanctions on violators, lack of an effective routine inspection program, and inconsistency in resolving violations.

On the last deficiency, the report identifies cases where the department failed to respond to a complaint or take appropriate and timely follow-up corrective actions after a violation was identified. The department considers this to be a very serious matter particularly in light of the examples and will move at once to establish an effective tracking system to ensure that appropriate actions are taken to consistently resolve violations.

With regard to the charge that the Department lacks an effective routine inspection program to assess facilities' compliance, it is accurate that past emphasis has been given to inspecting situations where an alleged hazard has been reported. These response inspections have revealed conditions which pose serious threats to health and the environment and have been an efficient use of limited manpower. As additional manpower has become available, the department has emphasized the scheduled, routine inspections of facilities. The point is mentioned briefly in the report that the department has conducted an initial 100 routine facility inspections. This routine facility inspection program is a continuing and expanding program effort as is documented in the department's hazardous waste program plan for 1982.

The report states that the department fails to impose sufficient sanctions on violators. As the report points out, penalties are assessed through court actions which require very substantial commitments of legal and technical manpower. Within this restraint, the department has taken legal actions where we have documented serious and deliberate violations.

We do not agree with the contention that the department has not taken strong action when warranted. In several examples which the Auditor General's staff has brought to our attention, there was either little direct evidence in hand to support a legal action or it was questionable whether the violation involved hazardous wastes.3/

TRANSPORTATION PROGRAM

The report makes the valid criticism that the Department should have moved faster in establishing regulations regarding the transportation of hazardous wastes. In particular, regulations are needed to provide for the annual inspection and compliance certification for vehicles transporting hazardous waste by the California Highway Patrol. Examples are cited in the report of unsafe vehicles hauling hazardous wastes. These regulations were submitted as emergency regulations and became effective as of October 6, 1982. The full inspection programs should be underway in January 1982.

The department has taken steps to deal with the time consuming regulation development process. For the past two months it has conducted a high level, intensive review of the regulation development process to make the process more efficient. The results which are expected before the end of October should make the process as efficient as possible.

With regard to the manifest tracking system, the overall findings are accurate. The report fails to mention that, until very recently, California was one of only a few states that employed a manifest system at all. As the program has been used, the shortcomings became apparent. Improvements have been delayed partially due to costs and manpower resources and partially because a uniform national manifest system has been under development which could affect the California system. Revisions were made to the current system early in 1981 to allow recovery of more accurate and detailed information from the manifest. Inasmuch as the comprehensive information management system mentioned on page 45 of the report includes a new manifest tracking system and since the system is scheduled for implementation during 1982, no more staff time has been taken to revise the existing system. The new system incorporates preprinted sequentially numbered manifests and addresses all other shortcomings of the existing system.

Auditor General Comments:

- 1/ As noted on pages 12 and 13, our report differentiates between interim status documents and full permits. Interim status documents do not set specific compliance conditions nor do they require review of facility operations through on-site inspections.
- 2/ We believe that a strong permit program to upgrade existing facility conditions would have identified these deficiencies.
- 3/ On page 35, our report states that the department only sent warning letters to a company that on four separate occasions illegally dumped hazardous waste. In our opinion, this is sufficient justification for the department to take stronger action.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
Secretary of State
State Controller
State Treasurer
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
California State Department Heads
Capitol Press Corps